

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 22, 2015, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Tracy Corr, Michael Cornelius, Maja V. Harris, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber (Cathy Beecham, absent); David Cary, Steve Henrichsen, Brian Will, Geri Rorabaugh and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

Chair Jeanelle Lust called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust requested a motion approving the minutes for the regular meeting held July 8, 2015. Cornelius moved approval, seconded by Weber and carried 7-0: Corr, Cornelius, Hove, Lust, Scheer, Sunderman, and Weber voting 'yes'; Harris abstained; Beecham absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

July 22, 2015

Members present: Corr, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber; Beecham absent

The Consent Agenda consisted of the following items: **USE PERMIT NO. 52C, USE PERMIT 72A, and STREET AND ALLEY VACATION NO. 15005.**

There were no ex parte communications disclosed.

Hove moved to approve the Consent Agenda, seconded by Scheer and carried 8-0; Beecham absent.

Note: This is final action on Use Permit 52 C, unless appealed to the City Council within 14 days.

Lust stated the applicant of **Annexation No. 15006** and **Change of Zone No. 04075F** made a request to delay these items four weeks to August 19, 2015.

Cornelius moved to delay Public Hearing and Action for four weeks; seconded by Corr.

Motion carried 8-0; Beecham absent.

COMPREHENSIVE PLAN CONFORMANCE NO. 15010
VA CAMPUS REDEVELOPMENT PLAN,
ON PROPERTY GENERALLY LOCATED AT
600 SOUTH 70TH STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 22, 2015

Members present: Corr, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber; Beecham absent

Staff recommendation: Conformance with the Comprehensive Plan.

There were no ex parte communications disclosed.

Rorabaugh stated Public Hearing for new information will be continued to August 5, 2015. Action by the Planning Commission will also occur on that date.

Staff presentation: **David Landis, Director of Urban Development**, the applicant, reviewed in general, the process and various steps by which redevelopment projects such as this are eventually approved. This is the general plan and description of the Victory Park Project which includes the 60 acres of the current VA Campus. It is under consideration for a 75-year lease to the lead developer, the Seniors Foundation. Other members of the development team include Sampson Construction, America First, and Olsson Associates. The area includes handsome historical buildings known as "Doctor's Row" and the existing hospital, a portion of which is currently used as a clinic. The areas in use are well maintained but, unfortunately, those not in use have fallen into a state of dilapidation that allowed for the official finding of "blighted and substandard" determination. If anything is to be done to improve this site, it will be through redevelopment. A profit-generating development is needed to justify the immense expense of taking on such a large project.

Neighbors in surrounding areas love the beautiful vista this campus has provided for many years so there is naturally some resistance to change. There is concern about the changing view, location of parking lots, tree removal, and water drainage. The developer has been responsive to these concerns. The proposed site plan has been revised, which includes the relocation of the large VASH building and many of the drainage issues have been resolved and could even be improved. The neighborhood continues to be apprised of plans and this negotiation is a work in progress.

There is space reserved on this site for a new VA outpatient clinic but the Veteran's Administration has not yet committed to the site. If it does not end up there, the area would be developed and would likely remain true to the intent of the overall site by remaining a health-oriented commercial site designated for seniors and veterans.

Hove asked whether the streets on the site are public or private.

Ed Zimmer of Planning staff came forward to state that they are currently private. Some, particularly the main road that curves through the campus, will be built to public standards with the hope that in the future they might be accepted as such.

Corr inquired whether the water and sewer are public or private?

Landis stated that they are currently private and substandard. Part of the plan includes significant replacement of these systems.

Kent Seacrest of Seacrest and Kalkowski came forward as legal representative of the development group to state that as the systems are replaced, they will be converted to public, with some connection to private lines.

Proponents:

1. **Tammy Ward, Executive Director of Seniors Foundation**, came forward as applicant to state that the mission of Seniors Foundation is to enrich the lives of seniors by supporting aging partners. Approximately five years ago, the foundation contacted the Veterans Administration and submitted a proposal for redevelopment. A short-term lease was awarded in 2011 and, since that time, the project team has worked to develop this beautiful campus in order make a big difference in the lives of veterans and seniors. This is the first lease to be awarded to a non-profit organization and this project could very well serve as a model for the entire nation.

Hove asked if the Seniors Foundation has had a long connection with veterans. Ward replied that Vets will have priority on the campus and this is a natural extension of services.

Hove went on to note that many Vets feel ownership of this property. He inquired about the extent to which this development and campus will remain veteran focused. Ward said that it will also serve seniors in general, but veterans will have priority on the campus. They will additionally be served by Aging Partners on the location. Outreach continues with local vets and they are heard loud and clear. The foundation will meet with the Veterans Council at the end of the month.

Corr asked if the Vets Council has statewide representatives or if it is more local. Ward responded that it is a statewide organization. The Lincoln campus will focus on service to those who do not go to Grand Island or Omaha.

Harris questioned what would become of the area designated for the clinic if that site is not selected and whether it would become additional housing. Ward replied that even if it is not selected, the rest of the plan would move forward. Harris asked if it would still serve veterans. Ward said yes, the intent would be the same. Seacrest said that it might be more likely to be a commercial development, due to its location. There are plenty of commercial uses that would still cater to veterans and seniors.

Corr asked the height of the buildings behind the relocated VASH building, near the neighbors. Seacrest responded that they are two-story buildings.

Seacrest stated that he is providing legal representation for the seniors foundation and this redevelopment team. This is an extremely complicated project on hallowed grounds. Since the Veterans Association owned the property and it is entrusted for Vets, it gets a high standard of attention and care. There are six different government entities involved and all thresholds must be met at each level. This project started approximately five years ago and now there is a deadline in October of this year that must be met.

This campus was built in 1930 and was mainly a hospital and housing for staff. In 1995, the hospital was eliminated and downsizing occurred. The VA has done an excellent job maintaining the areas in use, but the other areas need a great deal of care. The VA and Congress have approved money for a new clinic and the hope is that it will be on this site. It is important to recognize that the clinic will be leaving the former hospital building and something else needs to take its place, otherwise the historical building could be lost.

The developers have listened carefully to the concerns of the neighbors and much progress has been made to address their concerns. At the same time, not all of the new development can be pushed up against the historical buildings and a certain density must be reached due to economic factors.

Corr asked how the main building will be affected once the clinic is removed. Seacrest said the newer, modern appendages will be removed. The historical portions of the red brick buildings will remain. That historic vista as seen from 70th Street will stay the same.

Corr went on to inquire about the access to the property and if it will be built in conjunction with the memory care area. Seacrest said the eventual goal is to shift the location of access slightly to the north.

ACTION BY PLANNING COMMISSION:

July 22, 2015

Cornelius moved to continue public hearing for new information only and action to August 5, 2015, seconded by Hove.

Motion carried 8-0: Beecham absent.

SPECIAL PERMIT NO. 04054A
TO ALLOW DUPLEX LOTS AND REVISE LOT AREAS,
ON PROPERTY GENERALLY LOCATED AT
SW 27TH STREET AND WEST A STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 22, 2015

Members present: Corr, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber; Beecham absent

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: **Steve Henrichsen of Planning Staff** came forward on behalf of Planner Christy Eichorn. He described the overall development which is already underway. This special permit is to amend the existing plan. The amendment does not change road network, utilities, or any other major items.

The language in the original resolution was very specific in approving a certain number of "single family" dwelling units. It is more typical to state a total number and to list several types of dwelling units. It was, therefore, determined that it was specifically approved as single family, even though there was nothing in the staff report that mentioned it being exclusive. The underlying zoning allows other types of housing without a special permit.

A developer came in and bought lots along West Rose Street. Originally, there were 15 single-family detached lots. In the new plan, there are fewer lots, but eight of those are now shown for duplexes. There is not an increase in the total number of dwelling units in this project as a whole. In summary, on this specific future street, there is a change from 26 to 28 dwelling units. There is a change to specifically allow duplexes, which are normally allowed but, since the original resolution was so specific, it is now before Planning Commission for review.

Corr asked how many total dwelling units maximum would be allowed in the entire area. Henrichsen said it would probably exceed the total number that is approved today because it was originally 382. In the R-3 zoning, it potentially could have allowed over 500 as a whole. This is a very typical density for this type of suburban development.

Corr went on to ask about a request in the applicant's letter for a waiver from 40 to 27 feet, when the staff report states 31 feet. Henrichsen said they originally asked for 27, but the narrowest was 31 feet, so it was changed. They are asking for the waivers for 2-family lots. These waivers are already approved for single family detached, so this plan already allows 40-foot wide lots. They are asking to have the same kind of lot width, but for duplexes, so each family would only have around 31 feet of lot width.

Harris asked if historically the single family designation is common or an oddity. Henrichsen replied that there are not many others like this. They usually specify total number of dwelling units or the mix of housing types, which allows for more flexibility to change rough proportions. This just happened to be an unusually specific one. In the staff report there was no reference to trying to establish single-family development.

Harris went on to ask if there was any public testimony or statements by the former Planning Commissioners that addressed whether or not this was an intentional action. Henrichsen said no, Planning staff looks for legislative intent or opposition in situations like this; it was more likely an error. In developments like this, it is not uncommon over time to develop with single-family attached lots.

PROPONENTS:

Lyle Loth of REGA Engineering came forward on behalf of applicant Scott Anderson. Mr. Anderson has been building for over 20 years and although he builds different types of housing, he prefers duplexes. In some cases, he retains ownership and they become rental properties. There are not many available on the market at this time, so he approached Hartland Homes and purchased this area, hoping to make it into duplex lots. He chose not to construct single-family homes due to several economic factors involved in construction. Rental properties justify the costs of the type of home being proposed.

ACTION BY PLANNING COMMISSION:

July 22, 2015

Harris moved approval, seconded by Hove.

Lust stated this appears to be a clean-up item and it is surprising it was not approved for duplex construction in the first place. She will support the motion.

Motion carried 8-0: Beecham absent.

Note: This is final action on Special Permit No. 04054A unless appealed to the City Council within 14 days.

SPECIAL PERMIT NO. 15040
PERSONAL WIRELESS FACILITY,
ON PROPERTY GENERALLY LOCATED AT
3434 SOUTH 13TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 22, 2015

Members present: Corr, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber; Beecham absent

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: **Brian Will of Planning Staff** came forward to state that this is for a camouflaged personal wireless facility shown as a large cross at the north end of Southview Baptist Church. This location is a sensitive site, meaning that it is not a preferred or limited preference site. In the area where the carrier, Verizon in this case, is trying to locate, there are no better opportunities for co-locating or locating on a public, commercial, or industrial site. There is due diligence on the part of the applicant for looking into other options. Impact to neighbors must be mitigated. Planning is recommending approval with conditions, most significantly, the siting on the property. The carrier and the church considered locating to the south edge of the church rather than the north to limit impact and better take advantage of the height and scale of the church. The entire block is owned by the church except for one residence. If the tower is not relocated, the other conditions relate to landscaping, including the addition of trees to fill out the landscape screen at the property line.

Weber stated that the planting of the additional trees is part of this permit. He asked if the trees would have to be replaced if there is a problem. Will stated that is correct; it is part of the site plan approval process and resolution. The special permit runs with the land and would ultimately be the responsibility of the property owner, though there is an arrangement between the property owner and the tower owner.

PROPONENTS:

Jeni Byrd, 6519 Towpath Road, East Syracuse, New York, came forward on behalf of the applicant, SBA Communications, to state that they have been working with Planning staff for approximately a year and all conditions have been met. The tower was originally proposed at the southwest corner, but the City recommended it be nearer to the building so a south location abutting the building was suggested. The church is planning an expansion in the future so the tower was then moved to the north location. The church also

has funds set aside to purchase the one property on the block not owned by them, should it ever become available. The site plan is revised to show three trees that would reach a mature height of 35-five feet.

Corr acknowledged that the applicant checked many sites. She asked if the shopping center to the west of this site was considered. Byrd said they did not go any farther west. The shopping center to the southwest was considered. That owner also has a large agricultural field to the south and offered to build a structure if Verizon would build a tower on the building, but it was too far out of the desired coverage area. There was another good location in a different agricultural area but they did not want a tower located in the preferred area and the suggested location was completely outside the data coverage preference area.

Aaron Householder, Senior Pastor of Southview Baptist Church, came forward to thank the work of Ms. Byrd and Mr. Will. Relocating the tower is something the church is willing to consider. There is concern about the site-specific item in the staff report referring to the tower being illuminated. There are no plans to light the tower at this time, but it is a cross and it is the desire of the church to have that serve as a beacon. It hoped that it could be lighted sometime in the future.

Hove asked if it would be lit from the ground. Householder said that would be likely but no specifics have been looked into since there is no decision yet about the tower itself.

Questions of Staff:

Will returned to answer questions.

Lust stated it was her understanding that the City ordinance may not allow that tower to be lit. Will said not exactly. Towers over a certain height are required to be lit according to federal regulations. With a conventional cell tower, typically there is no desire to draw attention to it. There is no objection from staff if that condition were modified. This is a camouflaged facility, therefore, the rules are different. If they wanted to draw attention to this, it would not be inappropriate.

Scheer pointed out that the lighting design would have to follow all the lighting standards regarding uplighting and spill to prevent light pollution.

Lust asked if they would be required to come forward with another application at that point. Will said that it could be a condition that it be at the discretion of the Planning Department. Lust asked if a note saying there would not be lighting unless there is a further application to the Planning Department would be sufficient. Will said yes.

Will said that when it came to the siting, this one was difficult to pick the most appropriate location. The applicant is to be commended for going above and beyond to find the best location. Locating the tower to the south is an ideal condition. The church used to own the residence but then sold it. It is not unreasonable to assume that they do plan to own it again in the future so they will own the whole block. In that case, if the tower is more centrally located, as they have suggested today, that might be more appropriate. Staff recommendations were based on what is on the ground today.

Hove asked if planning is satisfied with the suggested location with the addition of the trees. Will said that they are asking that it be left where they have proposed, but if that were the decision, it would face opposition from staff. Lust clarified that there would be no problem if Condition 1.1.1 regarding the location were eliminated. Will agreed. He went on to say that there was no objection from neighbors, so that also says something positive about this situation.

Corr asked for confirmation that the neighbor was contacted. Will said they got a letter from City, and he believes there was also personal contact by the applicant. He is confident they are aware of this.

Harris asked for clarification that the letter that went to the neighbors stated the location shown in the proposed site plan and not the location in the conditions suggested by Planning. Brian confirmed that was the case.

Cornelius asked if a hypothetical church would be required to come before Planning Commission for a proposal to build a cross or tower that was not an antennae, or if that would be allowed by right? Will answered that a structure attached to the church would be allowed to be built fairly tall. Cornelius wondered about an antennae attached to the church. Will said the situation would depend on various factors. If it is personal wireless facility, as defined, it would be treated it as such and would be subject to federal guidelines. It may be something that could be done administratively; there are some options that are allowed to be approved that way.

ACTION BY PLANNING COMMISSION:

July 22, 2015

Corr moved approval, seconded by Weber.

The Commissioners discussed procedure for how motions should be made since amendments to the conditions were being discussed. It was mutually decided that the initial motion made by Corr and seconded by Weber to consider approval of the special permit with conditions as they appear in the staff report would stand.

Cornelius stated he is uncomfortable with some of these issues of lighting. There are gray areas concerning things that would not necessarily be built as is. On the other hand, personal wireless facilities are part of infrastructure; they must be built. There would be different questions if a different institution were before Commission asking to build an 80-foot tower for another reason. He stated he has misgivings and is not prepared to vote in favor of the motion to change the condition on lighting. He has no objection to the condition regarding moving the tower.

Lust stated she would support both proposed amendments. The tower should be allowed in the location where it was originally proposed by the applicant since Planning Commission has now heard that it might interfere with a future expansion of the church in the location suggested by Planning staff. As for the tower being lighted, it is a reasonable request to see if it is something that could be approved in the future. She stated she is comfortable with the addition that it must meet Planning staff approval.

Harris stated that she is willing to strike the condition regarding location but would like more discussion in general about the lighting aspect. There is nothing stopping the applicant from coming forward in the future to ask for an amendment when they are ready to present more specifics.

Sunderman said he is comfortable striking the location condition and keeping the lighting condition, adding that changes are subject with Planning Department approval. The Planning staff will not administratively approve anything that is controversial. If anything were to seem unusual, it would be directed towards Planning Commission and would go through the public process.

The Commissioners had further discussion regarding procedural order in making amendments to the main motion.

Rick Peo, City Attorney's Office, came forward to clarify that the main motion before the Commission can be amended, if chosen, to strike 1.1.1 related to the location, and modifying 1.1.2, related to the lighting.

Sunderman moved that Condition 1.1.1 be stricken; seconded by Harris.

Sunderman added that the reason he is moving the amendments separately is because there appears to be consensus on removal of this condition. Motion carried 8-0; Beecham absent.

Sunderman moved that Condition 1.1.2 be modified to included "subject to approval by the Planning Department"; seconded by Hove. Motion carried 6-2; Cornelius, Harris dissenting; Beecham absent.

Lust called for the vote on the main motion, as amended. Motion carried 6-2: Cornelius, Harris dissenting; Beecham absent.

Note: This is final action on Special Permit No. 15040 unless appealed to the City Council within 14 days.

SPECIAL PERMIT NO. 15030
PERSONAL WIRELESS FACILITY,
ON PROPERTY GENERALLY LOCATED AT
3300 NORTH 1ST STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 22, 2015

Members present: Corr, Cornelius, Harris, Hove, Lust, Scheer, Sunderman, and Weber; Beecham absent

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: **Brian Will of Planning Staff** came forward to explain that this item was held over to hear new information only, since there was opposition from neighbors.

Lust asked if a neighborhood meeting has occurred since that time. Will said yes, it took place at the church and there was a good turnout of approximately thirty neighbors.

PROPONENTS:

Joe Coyle came forward representing the applicant. The 2- hour neighborhood meeting was fruitful. There were neighbors and congregation members present, many of whom gave testimony at the last Planning Commission meeting. Many questions were answered about how and why the site was selected. Some concerns were addressed. There was a lot of concern about who will maintain trees surrounding the site. It is now understood that SBA and the property owner have a lease agreement. If the landscaping is not maintained, SBA would be in violation of the special permit so the recourse would be to go to the City.

Weber asked if the existing mature trees were part of the permit. Coyle said no, only the new ones. SBA will be responsible for those. The existing trees are mentioned only because they are there now serving as a buffer.

Corr asked if anything substantially changed on the application. Coyle said nothing was changed as a result of the meeting.

OPPONENTS:

1. Robert Marshall, Secretary of Roundtable Heights Homeowner's Association, came forward to thank Mr. Coyle and Mr. Will for their cooperation and participation in working with the neighborhood. There is still opposition to this application. One thing that remained an issue with the neighborhood was site selection. His understanding was that the site location was restricted to two lots. There are others that are less obtrusive to the neighbors that were never considered or were suggested and declined. That makes it appear as though the City and the Planning Commission are basically just "rubber stamping" what Verizon wants and that upsets the neighborhood. Other wireless facilities located in neighborhoods have more attractive brick towers or similar camouflaging or they are shorter. Another suggestion from the neighbors was to relocate the tower to the southwest part of the lot where it would be surrounded by the church and a water retention area. The owners of the towers should have a bond requirement for maintaining the tower. The church seemed to indicate that they do not have the money to maintain even the existing trees. Most of the neighbors felt that this is a "done deal" and, therefore, did not wish to return to the meeting today. The number of members in the association that showed up to the meeting reflects how much opposition there is.

APPLICANT REBUTTAL:

Coyle returned to clarify that the Verizon search area only included this property and the one to the south. The area is always driven to see if there are alternate locations. Some of the other options did not pan out as viable options. To be clear, Verizon did not say that other locations would not work but rather that the landowners did not agree to the use. Alternate locations away from the desired search area have been rejected due to the importance of the area for a capacity site, versus a coverage site. The height of the tower in residential areas is allowed to be 100 feet. Technological proof of the height necessary to achieve the capacity goals is required by ordinance. In this case, the 80-foot tower with the 5-foot lightning rod was sufficient. A shorter bell tower type design would not work for this type of tower, which is needed in this location.

Corr said there is an existing pole in Roper Park. She wondered if it is feasible to make that tower taller and if it would address the coverage issue. Coyle said it would not work. He showed coverage maps that clearly illustrated the gaps in data coverage in the area where the tower is proposed. This information was presented to the neighborhood and the graphics were so clear that the neighbors were even able to predict where the next tower would need to be located to fill in coverage gaps.

Corr asked about the possibility of incorporating a cross or bell tower design. Coyle said it could be done but it is not a requirement. It would be the church or landowner that would request something like that. The most compact, standard model was proposed. Corr added

that it must increase the cost to do a different design. Coyle agreed that implementing what is called a “stealth” design does add additional expense, so unless it is a requirement, it is standard to start with the normal pole design.

Weber wondered if the cross design that was shown to neighbors changed any opinions. Coyle replied that a neighbor brought that up at the meeting and it was discussed. This church is a 1-story building so even putting a stealth design near the church building would seem out of scale and unnatural.

ACTION BY PLANNING COMMISSION:

July 22, 2015

Cornelius moved approval, seconded by Sunderman.

Cornelius said this request appears to meet the requirements for approval and the land owner is amenable to the arrangement. There are calls for camouflage but the 85-foot bell tower or a cruciform tower would have just as much visual impact as a monopole of the same height. It may make some emotional impact to make that change at this stage, but once the tower is in place, visually, it would not change the impact. As was mentioned on the last application, which he would have supported if it had not been amended, wireless facilities are part of the world now and they must go where they are needed or systems will not work. There is a general agreement among stakeholders. Neighbors are afraid of the change to the vista, but looking at this one, it will not be particularly extreme.

Weber said that with regard to the trees that are listed on the application, only the trees within the permit area should be accepted. There is no control over trees outside that area. There is no problem with the description of the property. But it says the location selected takes advantage of existing trees. That language should not be there because those could be gone tomorrow.

Scheer said he agrees with Weber. To have existing conditions and context described is important, but there should not be information that helps to support the application in question. He will support the motion but wanted to state that he finds it troublesome and hopes there can be a better solution.

Lust stated she will also support the application. She feels for the neighbors who had a nice open site, but if the best care was taken in selecting the location, this needs to move forward. With regard to the discussion on the mature trees, conditions of parts of the property that are not necessarily part of site plan should still be considered since there needs to be a description of what is there, though it is also important to acknowledge that those conditions may change.

Corr stated she views the mature trees as a bonus that will help provide coverage until the new ones are established.

Motion carried 8-0: Beecham absent.

Note: This is final action on Special Permit No. 15030 unless appealed to the City Council within 14 days.

There being no further business to come before the Commission, the meeting was adjourned at 2:49 p.m.

Note: These minutes will not be formally approved by the Planning Commission until the next regular meeting on Wednesday, August 5, 2015.

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